



WESTON BENSHOOF
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ATTORNEYS AT LAW

jocelyn@wbccounsel.com

December 3, 2001

VIA FEDERAL EXPRESS

Docket Unit
Attention: Docket No. 01-AFC-1
CALIFORNIA ENERGY COMMISSION
1516 - 9th Street, MS 4
Sacramento, CA 95814

DOCKET	
01-AFC-1	
DATE	DEC 03 2001
RECD.	DEC 03 2001

Re: Rio Linda/Elverta Power Project (01-AFC-1)
Applicant's Proposed Revision to Committee Scheduling Order

To Whom It May Concern:

Enclosed is an original copy with original signature and 12 copies for internal distribution of Status Report No. 6. We filed the document electronically on December 3, 2001 at approximately 4:00 p.m. We have enclosed a postage-paid and self-addressed stamped envelope for the return of our conformed copy.

Very truly yours,

Jocelyn Thompson
WESTON, BENSHOOF,
ROCHEFORT, RUBALCAVA & MacCUISH LLP

JNT/amf
Enclosure

JOCELYN THOMPSON (State Bar No. 106544)
KATHLEEN A. KENEALY (State Bar No. 212289)
DOUGLAS E. WANCE (State Bar No. 208170)
**WESTON, BENSHOOF, ROCHEFORT,
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Attorneys for Applicant
FPL Energy Sacramento Power, LLC

STATE OF CALIFORNIA

**Energy Resources Conservation
And Development Commission**

In the Matter of:

APPLICATION FOR CERTIFICATION
FOR THE FPL ENERGY SACRAMENTO
POWER, LLC RIO LINDA/ELVERTA
POWER PROJECT (RIO LINDA)

) Docket No. 01-AFC-1

) APPLICANT'S STATUS REPORT,
NUMBER 6

The Rio Linda/Elverta Power Project Committee's September 18, 2001 **Committee Order Suspending Scheduling** directed the parties to continue to file monthly status reports until the Committee directs otherwise. The following is the Applicant's progress during the month of November 2001, since the filing of Applicant's Status Report Number 5.

Sacramento County Zoning Consistency

On November 20, 2001, the County Board of Supervisors tentatively determined that the Applicant's project is consistent with the local zoning and the Zoning

Agreement. The Board's decision was based on presentations and testimony the County Planning and Community Development Department and County Counsel's Office, CEC staff, the CPAC, the Applicant and the public.

The Board also considered Inter-Department Correspondence from the Sacramento County Office of County Counsel, dated November 16, 2001 ("County Counsel Correspondence"). The County Counsel Correspondence was written in response to the requests of several Board members for further information and clarification. It is attached as Exhibit A. In the Correspondence, the County Counsel states its opinion that the Zoning Agreement does not override Zoning Code provisions authorizing the Applicant's stand-alone power plant on the property as a conditionally permitted use. *See County Counsel Correspondence at 3.*

The Board also considered Inter-Department Correspondence from the Sacramento County Planning and Community Development Department dated November 16, 2001 ("Planning and Community Development Department Correspondence"). The Planning and Community Development Department Correspondence is attached as Exhibit B. It concludes that if appropriately mitigated, the project can be found consistent with the General and Community Plans, provided that the issue of location of the natural gas line within the approach departure zone is addressed. *See Planning and Community Development Department Correspondence at 5.* The Board reserved the opportunity to to review the CEC staff analysis and conditions of zoning consistency before making a final decision regarding consistency with certain policies of the General Plan and Community Plan.

Data Requests

Applicant continues to prepare responses to the Staff's second round of data requests (numbered 92-234). In many cases, the information responsive to the second round of data requests also is relevant to, and will be included in, the AFC

supplement. In such cases, the data responses will contain specific cross-references to relevant portions of the supplement. As such, both documents will be prepared in close coordination with each other. Due to the overlap, Applicant intends to prepare and submit the data responses either concurrently with, or promptly following, submission of the AFC supplement.

AFC Supplement

Applicant continues to prepare its AFC Supplement. The Supplement will address the concerns identified by Staff in the Data Response Workshop for data requests 1 through 91 (i.e., plume abatement of the cooling tower, visual impacts relating to the turbine hall, noise impacts at certain residences, and water supply), as well as the interconnection configuration preferred by the Western Area Power Administration. The text and analyses for the Supplement are now largely finished. The Applicant has concluded, however, that it will be most efficient for it and CEC Staff if the Supplement is submitted closer in time to the issuance of the Preliminary Determination of Compliance ("PDOC"), rather than early December as previously indicated. This will allow the Supplement to reflect the analysis in the PDOC and it will allow the Applicant to continue to refine the Supplement in the intervening time period.

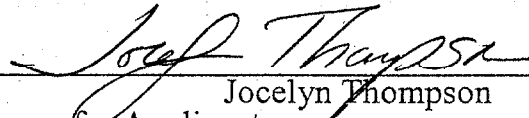
Preliminary Determination of Compliance

As noted in Applicants Status Report #5, in January 2002, the Sacramento Metropolitan Air Quality Management District Board ("Board") is scheduled to consider proposed amendments to District Rule 202. The proposed amendments would allow

emission reduction credits, or ERCs, from the second and third calendar quarters to be used interchangeably. Applicant anticipates that the PDOC will be issued thereafter. The PDOC may be issued sooner if Applicant obtains sufficient additional ERCs so that it does not need to rely on the amendments to Rule 202.

DATED: December 3, 2001.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Jocelyn Thompson", is written over a horizontal line.

Jocelyn Thompson
Attorney for Applicant
FPL Energy Sacramento Power, LLC

STATE OF CALIFORNIA

Energy Resources Conservation
and Development Commission

In the Matter of:

Docket No. 01-AFC-1

Application for Certification for the
FPLE Energy Sacramento Power, LLC
RIO LINDA/ELVERTA POWER
Project (RLEPP)

PROOF OF SERVICE

I, Anthonie Fang, declare that on December 3, 2001, I served a copy of the attached APPLICANT'S STATUS REPORT, NUMBER 6 electronically and by Federal Express by depositing such envelope in a facility regularly maintained by Federal Express with delivery fees fully provided for or delivered the envelope to a courier or driver of Federal Express authorized to receive documents at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, 16th Floor, Los Angeles, California 90071 with delivery fees fully provided for and addressed to the following:

DOCKET UNIT

Send the original signed document plus the required 12 copies to the address below:

CALIFORNIA ENERGY COMMISSION
DOCKET UNIT, MS-4
Attn: Docket No. 01-AFC-1
1516 Ninth Street
Sacramento, CA 95814-5512

* * * *

In addition to the document served to the Commission Docket Unit, I also served individual copies of the same document by First Class Mail enclosing the document in a sealed envelope on the following parties. I am "readily familiar" with this firm's practice for the collection and the processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, the correspondence would be deposited with the United States Postal Service at 333 South Hope Street, 16th Floor, Los Angeles, California 90071 with postage thereon fully prepaid the same day on which the correspondence was placed for collection and mailing at the firm. Following ordinary business practices, I placed for collection and mailing with the United States Postal Service such envelope at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, 333 South Hope Street, 16th Floor, Los Angeles, California 90071.

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Richard McHenry
Central Valley Regional Water Quality
Control Board (RWQCB)
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Sacramento, CA 95827

Mike Phelan
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Rio Linda, CA 95673

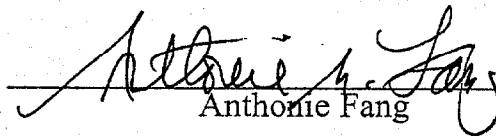
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California Department of Conservation
Division of Mines and Geology
James F. Davis
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Sacramento, CA 95814

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 3rd day of December, 2001 at Los Angeles, California.


Anthonie Fang

COUNTY OF SACRAMENTO
OFFICE OF THE COUNTY COUNSEL
Inter-Department Correspondence

RECEIVED
NOV 16 2001
BOARD OF SUPERVISORS

November 16, 2001

To: Chairperson and Members
Board of Supervisors

From: John Whisenhunt
Assistant County Counsel

Subject: Land Use Consistency Determination Relating to Florida Power and Light
Power Plant CEC Application

*PS
for agenda
11/20*

This memorandum is in response to a request from several Board members for clarification regarding the nature of the determination being requested of the Board of Supervisors in connection with the above-referenced application. There is currently pending before the California Energy Commission ("CEC") an application filed by Florida Power & Light ("FPL") for a natural gas-fired power plant on a 90-acre site in Rio Linda ("subject property"). Public Resources Code §25500 provides the CEC ("CEC") with the following authority over power plant siting:

"[T]he Commission shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the Commission shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency . . . and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency . . ."

The foregoing provision, therefore, grants the CEC the exclusive authority to certify all new power plants within the State and acts to supercede any local land use regulations to the contrary. However, Public Resources Code §25523 goes on to require a determination by the CEC as to whether a particular facility conforms to local regulatory requirements. To the extent there is not compliance with a local regulation, the CEC is required to meet with the local jurisdiction in an effort to correct or eliminate the noncompliance. If such noncompliance cannot be corrected or eliminated, the CEC is nevertheless authorized to approve the facility if it "determines that such facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving such public convenience and necessity." (Public Resources Code §25525.) Therefore, while the County has no direct land use authority with respect to proposals to site power plants, the CEC is required to determine whether a proposal is in compliance with the County's land use regulations and, if not, to make certain findings

before approving the application. As part of the CEC permitting process, CEC staff has requested a determination by the County as to whether the proposed power plant is consistent with applicable County land use regulations.

Prior to 1994, the subject property was zoned Industrial Reserve ("IR"). In 1994, Sacramento Ethanol Partners LLC ("SEPCO") proposed to construct a cogeneration facility on the subject property consisting of a power plant and an ethanol manufacturing plant. While a power plant was a conditionally permitted use in the IR land use zone¹, the ethanol manufacturing component of the project was allowed only in the M-2 land use zone. As a result, SEPCO applied for a rezone of the subject property to M-2 that was granted pursuant to a Zoning Agreement approved by the Board of Supervisors on February 1, 1995 ("Zoning Agreement"). The Zoning Agreement included a provision limiting development of the subject property "to a power plant and ethanol manufacturing facility."

The CEC subsequently approved a permit for the combined power plant and ethanol manufacturing facility. However, this cogeneration facility was never constructed and the CEC permit eventually expired. FPL is now requesting CEC approval of a stand-alone power plant on the subject property. The issue presently before the Board is whether a stand-alone power plant is consistent with applicable County land use regulations. The determination of this issue turns, in part, on how the Board interprets the Zoning Agreement applicable to the subject property.


It is important to emphasize at the outset that the rezoning of the subject property to M-2 and the resulting Zoning Agreement was strictly a function of the ethanol component of the SEPCO project. If the original project had not included the ethanol manufacturing plant, there would have been no need for the M-2 rezoning and the resulting Zoning Agreement. The change in the underlying zoning from IR to M-2, likewise, had no impact on the land use status of a power plant on the subject property since a power plant is a conditionally permitted use in both the IR and M-2 land use zones. As a result, any determination that a power plant is not a permitted use on the subject property would have to be based on the language of the Zoning Agreement.

The Rio Linda/Elverta Community Planning Advisory Committee and other opponents of the project have argued that the Zoning Agreement prohibits the use of the subject property for any purpose other than as a combination power plant and ethanol manufacturing facility. While a literal reading of the language in question would arguably support this interpretation, such a conclusion ignores the context in which the Zoning Agreement was adopted. The language in the Zoning Agreement limiting the use of the property to a "power plant and ethanol manufacturing facility" is a reflection of

¹ The Planning Department classifies a power plant as a public utility use that is permitted in the IR land use zone subject to approval of a use permit by the County Planning Commission. (See Zoning Code Sections 201-02 (Table I D.36.), 201-04(17) and 301-13). Such a use is also a conditionally permitted use in the M-2 land use zone. (See Zoning Code Sections 230-11 (Table IV K.17.), 230-13(15) and 301-13).

the particular project that precipitated the underlying rezoning application. The purpose of the Zoning Agreement was to allow the ethanol manufacturing component of the project without authorizing any of the various other industrial uses that would otherwise be permitted as a matter of right in the M-2 land use zone. There is no reason to believe that the Zoning Agreement was intended to preclude conditionally permitted uses in the M-2 land use zone that by definition require further discretionary action in the form of a use permit. It is therefore our opinion that the Zoning Agreement does not serve to override those Zoning Code provisions authorizing a stand-alone power plant on the subject property as a conditionally permitted use.

It is our recommendation that the Board make a determination as to whether the proposed stand-alone power plant is consistent with applicable County land use regulations. This determination will require two-steps. The first step is to determine whether the proposed power plant is consistent with the underlying zoning for the subject property; i.e., whether a stand-alone power plant is a conditionally permitted use notwithstanding the Zoning Agreement.² If the Board determines that the proposed power plant is inconsistent with the applicable zoning for the subject property, no further Board action is necessary. However, if the Board determines the proposed power plant is a conditionally permitted use on the subject property, it will be required to make a further determination of consistency with applicable General Plan and Community Plan policies. Planning Department staff has outlined a process that identifies the relevant policies and would allow for the Board to make a tentative finding of consistency subject to development of appropriate conditions of approval and consideration of information contained in the environmental document prepared by the CEC. The Board would then make a final determination of General Plan and Community Plan consistency at such time as these conditions have been fully developed and the appropriate environmental document is available for review.


JOHN F. WHISENHUNT

cc: Tom Hutchings
Tricia Stevens
Leighann Moffitt

² If the Board concludes that the proposed power plant is inconsistent with the underlying zoning for the subject property, the only defensible basis for such a conclusion would be an interpretation of the Zoning Agreement that strictly limits the use of the subject property to a combination power plant and ethanol manufacturing facility.

COUNTY OF SACRAMENTO
Inter-Departmental Correspondence

November 16, 2001
For the Agenda of November 20, 2001

To: BOARD OF SUPERVISORS

From: PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

Subject: **REPORT BACK #2— FLORIDA POWER AND LIGHT
RIO LINDA/ELVERTA POWER PLANT PROJECT**

Contact: Leighann Moffitt (874-6141)

ASSESSOR'S PARCEL NO.: 202-0090-030 through 033

LOCATION: The property is located east of the Union Pacific rail lines, ½ mile south of Elverta Road, west of West 6th Street, and ¼ mile north of Straugh Road.

PROJECT PROPONENT:

FPL Energy Sacramento Power, LLC
700 Universe Boulevard
Juno Beach, Florida 33408

OWNER:

Gary A. Bernick Revocable Trust
329 Country Club Road
Eugene, OR 97401

I. STAFF RECOMMENDATION:

- A. Forward the letter provided as Attachment "B" to the California Energy Commission (CEC) regarding the County's status of review against County policies and regulations and indicate to the CEC that a stand-alone power plant would be a conditional use at this site and can, therefore, be considered by the CEC. This letter also indicates that the County finds that the project can be found consistent with the General Plan and Community Plan map and policies if appropriately conditioned by the CEC.
- B. Direct planning staff to return with a report back to the Board at such time as the CEC staff analysis has been prepared. Based on the information available at that time, provide an additional review of the project to determine whether the additional analysis and associated mitigation does address all relevant General Plan and Community Plan policies. The County Board of Supervisors could also chose to take a position to endorse or oppose the project, similar to making findings for issuance of a conditional use permit.

- C. Provide County staff any desired direction on the creation of a Board-endorsed group to negotiate a Community Benefit Package.

II. BACKGROUND:

The Board of Supervisors has heard this item twice, first on August 29, 2001 and again on October 3, 2001. At these hearings, staff presentations were provided by Planning and County Counsel's office; and testimony was received from representatives of Florida Power and Light. Representatives of the Rio Linda and Elverta Community Planning Advisory Council (CPAC) spoke in opposition to the project; and testimony was taken from numerous area residents and members of the public.

As a result of the testimony and discussion, the Board of Supervisors was not prepared to make a determination of consistency of the project with County policies and regulations. At both meetings, Board members referenced the lack of detailed analysis and information regarding the project as reasons for their inability to determine actual consistency. At the last hearing, the Board requested a more thorough review of the project. Planning staff therefore distributed excerpts from the Application for Certification to the CEC, Sections 1 and 3 as the project description; appropriate sections as pertinent to the reviewer, the matrix of Community Plan policies provided to the Board; and a matrix of General Plan policy analysis provided by the applicants. Attachment C lists the agencies sent the distribution and to what extent comments were received.

Planning staff notes that:

- The project remains on suspension at the CEC with a current date of December 1, 2001 indicated by FPL for submittal of additional information (this had been identified as October 1st at the prior Board hearing).
- There is no CEC staff analysis to provide more detailed independent review (also, the equivalent of an environmental document) of the application.
- The applicants have indicated that a revised landscape plan will be provided prior to the Board hearing on November 20th.

III. DISCUSSION:

General Plan Policies:

CLUP Consistency: SACOG staff have identified an inconsistency with the adopted Comprehensive Land Use Plan (CLUP) for Sacramento International Airport that does not allow "natural gas and petroleum pipelines and storage" in the approach-departure zone of the airport. These regulations are incorporated into the Noise Element of the General Plan. If this project were to be approved under the jurisdiction of the County, an

override of the CLUP by the Board of Supervisors would be required, thereby elevating the use permit to the Board of Supervisors. The CEC, however, is under no legal requirement to override the CLUP which is a local land use document. Based on personal communication with PG&E staff, initial meetings were held between PG&E staff (who would be the gas provider) and County Airport staff which did not raise safety concerns. Planning staff is checking with County Airports to identify whether they have actual concerns regarding an underground pipeline. It may be appropriate for the Board to indicate to the CEC their opinion on the advisability of such an override, to address the issue of consistency with the General Plan. Another alternative would be to suggest relocation of the gas pipeline out of the approach-departure zone.

Energy Facilities Goal: The stated Goal of the Energy Facilities component of the Public Facilities element references the provision of energy resources to the residents of Sacramento County. Staff is not certain that merchant power plants were anticipated at the time of preparation of the Element and that this wording was not intended to necessarily prohibit such a plant. The Board may, however, wish to offer their interpretation of the goal.

Community Plan policies:

Use of Septic: The CPAC has raised the issue of the interpretation of Community Plan Policy PF-4 which states that "new development in urban zones must have public sewer." Staff has suggested an alternative interpretation of Community Plan Policy PF-4 (see August 29, 2001 staff report, top of page 12). Staff suggests that the project be conditioned to connect to the public sewer system when such service becomes reasonably available. This is because the power plant is a public utility use which could occur in a more rural environment such as with the SMUD proposal, and because the employee load (full time staff of 23 individuals and peak daytime presence of 14 individuals) utilizing the septic system is relatively low given a 70 acre site. Water Quality staff have indicated that public sewer service cannot be provided to the site at this time. Environmental Health staff have indicated that a septic system is feasible given the number of employees and size of the site with a recommended condition for a test drill or soil evaluation prior to final design.

Zoning Code Regulations:

Height: As indicated in the staff report to the Board for the August 29th hearing, Section 301-21 of the zoning code addressing exceptions to general height regulations may apply to the cooling stacks. If the County determines that the cooling towers are similar to "towers, penthouses and other roof structures for the purpose of shelter for mechanical equipment, cupolas, water tanks, church steeples, carillon towers, or radio television antennas", the 100-foot limitation could be exceeded without a variance. If the Board determines that the exceptions provisions should not apply, then the County may wish to indicate to the CEC the appropriateness of approving the equivalent of a variance to height.

Landscaping and fencing: In addition, the County may wish to comment upon the final landscape plan with regards to zoning code requirements and Community Plan policies. The zoning code would require perimeter landscaping and fencing. The Community Plan calls for design concepts that retain a rural character. Modifications to traditional landscaping requirements may be appropriate to provide for landscaping of the developed portion of the site rather than treating the property edge as a more urban scheme. Fencing in the floodplain is also presumed to be unacceptable.

Visual impacts: Planning staff understands that a revised landscape plan is under preparation and will be provided to the County prior to the November 20th Board hearing. Planning staff will bring any revised plans and available photosimulations for Board comment on visual impacts.

Other items:

Water Supply: Water supply has also been addressed by the community as a concern. A revised plan for providing water from the Natomas area is proposed. County Water Resources staff is reviewing the revised proposal.

Air Quality: AQMD is continuing to conduct permit review of the project and have continued to request and receive additional information.

~~Negotiation of a Community Benefit Package:~~ As indicated at the prior Board hearings, if the Board is interested in directing County staff to participate in the negotiation of any community benefit package, the Board could direct staff to return with a report back on such efforts and the specifics of community benefits. At this time, it is staff's understanding that FPL is negotiating directly with various groups within the Community.

IV. CONCLUSION:

The Board of Supervisors has the opportunity to review the proposed Florida Power and Light power plant against the policies and regulations of Sacramento County. While the Application for Certification has been submitted to the California Energy Commission, the project remains in suspension and a CEC staff analysis has not yet been prepared. Planning staff has provided the Board with a discussion of the consistency of the project with zoning, including as related to the zoning agreement for the prior SEPCO project. Planning staff at the two prior Board hearings provided a discussion of the project against General Plan and Community Plan policies. The Community Planning Advisory Council has indicated their opinion that the project is not consistent with various General Plan and Community Plan policies.

Staff understands that many community members are strongly opposed to the project. Further, the CPAC has raised several issues related to General Plan and, in particular,

Community Plan consistency and has identified those concerns to the Board. Staff has narrowed these down to several "key issues" in the discussion section of the report where the Board may wish to provide its own interpretation of regulations and policies. Planning staff, however, has not concluded that any particular regulation or policy should preclude the project from being considered and analyzed via the CEC review process. Staff further concludes that, if appropriately mitigated, the project can be found consistent with the General Plan and Community Plan provided that the issue location of the natural gas line within the approach departure zone is addressed.

Given the level of controversy over the project, the lack of the equivalent of an environmental document (which will be covered by the CEC staff analysis), and potential modifications to the project description, staff suggests that the Board once again review the project upon issuance of the CEC staff analysis. In the meanwhile, staff has prepared a draft letter for input into the review process detailing key policies and regulations and attaching a list of items for consideration in the project analysis.

V. ATTACHMENTS:

- A. Overview matrix of applicable General Plan policies.
- B. Draft letter to the California Energy Commission from Sacramento County including attachment of draft Performance Standards and Conditions.
- C. Status of Agency distribution and responses.

Respectfully submitted,

THOMAS W. HUTCHINGS, DIRECTOR
Planning and Community Development Department

ATTACHMENT "A"

SUMMARY OF RELEVANT GENERAL PLAN POLICIES

General Plan Element	Relevant Policies	Consistency Issues
Land Use	LU-22-25	Visual quality policies.
Public Facilities	Goal	Per CPAC, inconsistent because no guarantee energy to Sacramento County residents. Staff response that County simply did not anticipate merchant plants and was not necessarily intent to prohibit such plants.
	PF-71 and 72	Visual intrusion. Staff understands that the landscape plan is being modified. Per application, FPL would meet County requirement to landscape and fence along the property line. The alternative approach under consideration by the applicants may be preferable which is to landscape the 20 acre developed area, leaving the remaining 70 acres unobstructed.
	PF-73 and 74	Regarding siting.
	PF-85 to 89 PF-92 & 93	Staff understanding per application, starting on page 3-42, is that existing transmission lines and substation will generally be utilized. However, connections to the Elverta substation and some upgrades may be necessary. Therefore, the CEC should consider policies PF-85 to 89 and 92 to 93 in their analysis.
	PF-118	Consider any reasonable site modifications if necessary to follow existing easements.
Noise	NO-1	Transportation noise. Apply condition to meet standard.
	NO-2 and 3	Analysis in application indicates the project meets the County General Plan standards. Application further indicates that the CEC may apply a more restrictive standard.
Agriculture	AG-27	Initial indications are that any impacts can be mitigated, however, Water Resources staff has requested additional information from the project engineers to allow for further review.
Conservation	CO-13	Erosion.
	CO-30	Septic system locations.
	CO-39	Water conservation.
	CO-66	Floodway encroachment.
	CO - 62, 69, 70, 78, 83-87, 95-96, 99-100, 130-131, 143	Policies related to habitat restoration, vernal pools, wetlands etc.
	CO- 155 - 162	Cultural resources.
Air Quality	AQ-5	Use Best Available Control Technology.
	AQ-17	Minimize air contaminants.
	AQ-37	Maximize air quality benefits with vegetation.



COUNTY OF SACRAMENTO

PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

827 SEVENTH STREET, ROOM 230
SACRAMENTO, CA 95814
Telephone: (916) 874-6141
FAX: (916) 874-6400

THOMAS W. HUTCHINGS
DIRECTOR

Robert Sherry, Principal Planner
Long Range Planning

Tricia Stevens, Principal Planner
Application Processing

Richard Maddox, Principal Officer
Code Enforcement

Ana Rhodes, ASO III
Administration

DRAFT

November 20, 2001

Mr. Lance Shaw
State of California – The Resources Agency
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Dear Mr. Shaw:

Thank you for the opportunity to provide comment and input on the proposed Florida Power and Light Power Plant in the Elverta community. It is the understanding of Sacramento County that the California Energy Commission has the sole authority to permit power plants that generate 50 MW or larger, including the proposed Florida Power and Light plant. However, CEC staff have testified to the County Board of Supervisors that the CEC is soliciting input on the consistency of the project with local zoning, with the Rio Linda and Elverta Community Plan and with the Sacramento County General Plan. Further, the CEC staff have indicated that while the California Energy Commission retains the authority to determine General Plan consistency, the Commission would give great weight to the opinion of the Sacramento County Board of Supervisors with regard to their interpretation of the County's regulations and policies.

The County Board of Supervisors has held three hearings regarding the proposed power plant. This letter is provided based on these hearings. The Board has concluded that the County's zoning regulations would permit a public utility as a conditional use in either the M-1, Light Industrial zone or the IR, Industrial Reserve zone. This means that if the State

of California did not directly regulate such a power plant, Sacramento County would require that a conditional use permit be granted by the Project Planning Commission. CEC staff has questioned the County regarding the prior zoning agreement for the SEPCO project based on testimony from residents at CEC Commission meetings. The County concludes that regardless of the existence of that zoning agreement, a stand-alone power plant is conditionally permitted on this property and review can proceed via the CEC permitting process.

The County has also conducted a preliminary review of the project against General Plan and Community Plan policies. Several key issues have been identified as well as numerous policies that should be considered as performance standards during the CEC staff analysis and subsequent review process. Based upon this initial review, the Board of Supervisors has tentatively concluded that the proposed project is consistent with applicable General Plan and Community Plan policies subject to the development of appropriate mitigation measures by the CEC in its conditions of approval. However, the Board of Supervisors reserves the right to reverse this tentative finding of land use consistency should it determine, after review of the proposed CEC conditions of approval and the final environmental document, that appropriate mitigations measures have not been incorporated into the CEC's proposed conditions of approval. The Board of Supervisors, therefore, requests the opportunity to conduct a final review of the proposed project for land use consistency after issuance of the CEC staff analysis and environmental document.

For the purposes of this initial review, the County provides as Exhibit "A" to this letter a list of items developed from the County General Plan, the Rio Linda and Elverta Community Plan, performance standards developed from the policies and additional suggested conditions of project approval from both County and outside agencies for consideration in the process.

Again, we appreciate the opportunity for this input and look forward to working with the Energy Commission and the CEC staff during the review process.

Sincerely,

Thomas W. Hutchings,
Director

Attachments (1)

EXHIBIT "A"

DRAFT PERFORMANCE STANDARDS AND CONDITIONS

Notes:

GP = Sacramento County General Plan

CP = Rio Linda and Elverta Community Plan

RLEPP = Rio Linda/Elverta Power Plant

Land Use

Visual:

- GP LU-22 Exterior building materials on nonresidential structures shall be composed of a minimum of 50 percent low-reflectance, non-polished finishes.
- GP LU-23 Bare metallic surfaces such as pipes, flashing, vents, and light standards on new construction shall be painted so as to minimize reflectance.
- GP LU-24 Require overhead light fixtures to be shaded and directed away from adjacent residential areas.
- GP LU-25 Require exterior lighting to be low-intensity and only used where necessary for safety and security purposes.
- CP LU-42 Prohibit or adequately mitigate impacts from industrial uses that would create odor, noise, dust, or air pollution problems within or immediately adjacent to residential or commercial areas.

Additional performance standards:

- RLEPP shall not cause odors that impact adjacent residential or commercial land uses.
- Project construction and operation noise shall comply with County noise ordinances including General Plan Policies NO-2 and NO-3.
- RLEPP shall employ Best Available Control Technology as required by the Rules and Regulations of the Sacramento Metropolitan Air Quality Management District (SMAQMD). The project shall also comply with SMAQMD Rule 402 (Nuisance) and SMAQMD Rule 403 (Fugitive Dust).
- Low-frequency noise impacts at residential receptors shall not exceed 70 dB(C).

- CP LU-44 Prohibit the development of industrial uses that would generate liquid or solid waste that may cause surface or groundwater contamination.

Additional performance standards:

- RLEPP shall not store, handle or otherwise generate liquid or solid waste in a manner that may cause surface or groundwater contamination. Waste handling and storage shall conform to all applicable federal, state, and County laws; including, but not

limited to the: Resource Conservation Control Act, 42 U.S.C. §§ 6901 et seq.; Toxic Substances Control Act 15 U.S.C. §§ 2601 et seq.; and the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) (Health and Safety Code, § 25249.5 et seq.).

CP LU-48 Adequately mitigate impacts associated with nuisance, pollutant, and other problems that exist between urban and non-urban uses.

CP LU-50 New development should contribute to the preservation of open space through the dedication of permanent park and open space areas in accordance with the natural resource policies of this Plan.

Additional performance standards:

- The project shall dedicate an easement across the property for multi-purpose (including equestrian) trails along the Natomas East Main Drainage Channel (NEMCD).
- RLEPP shall mitigate impacts to wetlands.

CP LU-51 Preserve the stream environment of the Natomas East Main Drainage Canal (NEMDC) tributaries in their natural condition.

Additional performance standards:

- The project shall not be constructed or operated in any manner that interferes with the existing natural stream flows of the NEMDC tributaries, or degrades the existing water quality of the tributaries.
- RLEPP shall construct and operate the project in compliance with all applicable federal, state and County laws including, but not limited to : the Clean Water Act; the California Porter-Cologne Water Quality Control Act; and the Sacramento City/County Drainage Manual (December 1996).
- The RLEPP shall obtain a National Pollutant Discharge Elimination System (NPDES) permit to be administered by the Sacramento County Water Resources Department.
- RLEPP shall prepare and submit to the County a Storm Water Pollution Prevention Plan (SWPPP) to be administered throughout all phases of operation, grading and project construction. The SWPPP shall incorporate BMPs to ensure that potential water quality impacts during construction and operation are minimized.

CP LU-52 Encourage design concepts, including landscaped corridors, that help retain a rural character along major transportation routes.

Additional performance standard:

- RLEPP shall prepare and implement a design and landscape plan for further review by the County of Sacramento. The plan shall be reviewed by the Landscape Section of Public Works, Transportation Division. Measures to be considered include fencing and dense, fast-growing, and drought resistant landscaping of either the property boundary or the actual developed portion of the site. The final plan shall balance the requirements of the zoning code for fencing and perimeter landscaping with a landscape concept more in keeping with the rural character of the area.

Public Facilities

- GP PF-71 Locate and design production and distribution facilities so as to minimize visual intrusion problems in urban areas and areas of scenic and/or cultural value including the following:

- Recreation and historic areas.
- Scenic highways.
- Landscape corridors.
- State or federal designated wild and scenic rivers.
- Visually prominent locations such as ridges, designated scenic corridors, and open viewsheds.
- Native American sacred sights.

(See performance standard for CP LU-52.)

- GP PF-72 Locate and design energy production and distribution facilities in a manner that is compatible with surrounding land uses by employing the following methods when appropriate to the site:

- Visually screen facilities with topography and existing vegetation and install landscaping consistent with surrounding land use zone development standards where appropriate, except where it would adversely affect photovoltaic performance or interfere with power generating capability.

- Provide site-compatible landscaping.

- Minimize glare through siting, facility design, nonreflective coatings, etc.

- Site facilities in a manner to equitably distribute their visual impacts in the immediate vicinity.

- GP PF-73 Minimize the potential adverse impacts of energy production and distribution facilities to environmentally sensitive areas by, when possible, avoiding siting in the following areas:

- Wetlands.
- Permanent marshes.
- Riparian habitat.
- Vernal pools.
- Oak woodlands.
- Historic and/or archaeological sites and/or districts.

Additional performance standard:

- Onsite wetland areas that will remain following project construction shall be fenced to protect from further grazing impacts or human intrusion.

- GP PF-74 Energy production and distribution facilities shall be designed and sited in a manner so as to protect the residents of Sacramento County from the effects of a hazardous materials incident.

- GP PF-85 New transmission corridors should, whenever possible, avoid existing and planned urban areas; specifically those areas designated for residential and commercial uses. When avoidance is not possible transmission lines should be placed underground.
- GP PF-86 New transmission lines constructed within existing and planned urban areas should utilize existing transmission corridors whenever practical. Secondary preferred locations are railway and freeway corridors. If feasible, existing towers should be upgraded to accommodate additional circuits rather than erecting new towers.
- GP PF-87 To minimize visual impacts and protect the county's visual and aesthetic resources, new bulk substations should be located in industrial and non-retail commercial areas. To further minimize visual intrusion and potential land use conflicts, substations shall be enclosed with an eight-foot high security fence in concert with a 25-foot landscaped setback along all public street frontages.
- GP PF-88 Proposals to locate all new bulk substations and all other large scale energy distribution facilities shall be submitted to the Planning Department for review and comment in the form of a General Plan Conformity request.
- GP PF-89 Locate and design new transmission towers in urban areas in a manner that minimizes visual and environmental impacts, including impacts to historic buildings and view sheds.
- GP PF-92 Wherever feasible, utilize existing transmission poles to accommodate new overhead transmission lines. Existing and future transmission corridors should be shared by more than one utility company.
- GP PF-93 Transmission rights-of-way should avoid bisecting parcels wherever possible.
- GP PF-118 Route new high pressure gas mains within railway and electric transmission corridors, along collector roads, and wherever possible, within existing easements. If not feasible these gas mains shall be placed as close to the easement as possible.
- CP PF-4 All new development in urban zones must have public sewer. New development on lots of two acres or less in agricultural-residential zones must provide or make provisions for public sewer service.

Additional performance standard:

- RLEPP shall connect to public sewer service upon extension of the northwest interceptor to or through the vicinity of the Project site.
- CP PF-7 — In the event a conjunctive use water supply is not obtained, the County shall not take actions that will result in long-term damage from draw-down to the groundwater aquifer(s).

Additional performance standards:

- Average annual groundwater use by the Project shall not exceed 2,823 acre feet. If the Sacramento North Area Groundwater Management Authority determines, pursuant to the Water Forum Agreement, that surface water supplies are necessary to maintain the long-term sustainable yield of the Sacramento North Area Groundwater Basin, the Project shall bear its pro rata portion of the cost of such surface supplies.
- In its review of the Project, the California Energy Commission ("CEC") will determine which neighboring wells will be dewatered by increased groundwater withdrawals for the RLEPP. Those wells that will be impacted, if any, will be deepened and re-plumbed prior to Project operation, as a condition of license by the CEC to avoid any significant adverse impact. RLEPP also will be responsible for any increased electricity costs associated with the dewatering of those wells.
- Also as a condition of license by the CEC, wells in a zone where impacts are uncertain will be monitored through measurements prior to Project operation and at a subsequent interval, as determined by the CEC and not less than 12 months after startup, to determine whether the RLEPP has any dewatering effect on those wells. Those wells that monitoring determines have been impacted, if any, will be deepened and re-plumbed to mitigate any adverse impact. RLEPP also will be responsible for any increased electricity costs associated with the dewatering of those wells.

CP PF-10

DR-1 – Significant increases in peak flows within the Natomas East Stream Group (NESG), specifically Natomas East Main Drainage Canal Tributaries F, G and I, shall be mitigated through the implementation of regional detention facilities. In addition, restoration of any lost floodplain storage within the NESG (particularly Tributary G) shall require in-kind replacement, preferably on site.

DR-2 – Potential cumulative impacts to water quality resulting from construction activities within the Rio Linda and Elverta Community Plan area shall be mitigated through the enforcement of all appropriate "Best Management Practices" and other requirements under the NPDES program.

Additional performance standards:

- The project shall result in no net decrease in floodplain storage. The surface drainage systems shall be designed to handle the flow resulting from a 25-year, 24-hour duration rainfall event. The project engineer shall consult with the County when designing the proposed detention basin(s), flood management plan, and road access. In-kind replacement of lost floodplain storage caused by the project shall include mitigation measures required by the County Water Resources Division. The RLEPP shall comply with all applicable provisions of the Cobey-Alquist Flood Plain Management Act (Wat. Code, §§ 8401 et seq.), the Sacramento City/County Drainage Manual (December 1996), and the Water Quality Control Plan (Basin Plan) prepared by the Central Valley Regional Water Quality Control Board (1998).
- The applicants shall continue to coordinate with County Water Resources regarding the design of the Sorento Road access.

- CP PF-17 Prevent encroachment (by fill or building) into the floodplains of the tributaries of the NEMDC and Robla Creek, unless compensating flood storage capacity acceptable to the Water Resources Division is provided.
- CP PF-18 Police the encroachment into floodplains of creeks and tributaries within the community plan area, including agricultural activities that adversely affect flooding situations.
- CP PF-28 Promote the use of fire mitigation measures, such as automatic sprinkler systems, smoke alarms and other fire detection devices, for appropriate development projects.
- CP PF-29 New development in rural and Agricultural-Residential area must meet the American River Fire Protection District's most current Policy Statement for Rural Fire Flows. *(Now the Sacramento Metropolitan Fire District; also see District comments.)*
- CP PF-30 Require that new urban development be provided an adequate amount of water supply, in gallons per minute, to meet all fire flow standards as established by the American River Fire Protection District. *(Now Sacramento Metropolitan Fire District.)*
- CP PF-31 Developers shall coordinate with the American River Fire Protection District *(now the Sacramento Metropolitan Fire District)* the Rio Linda Water District, and the Citizens Utility District early in the project design stage in designing water distribution systems, hydrant locations and fire flow requirements for all new development proposed within the community area.

Additional performance standards:

Sheriff Safety

- The power plant must have an antiterrorism, sabotage and civil disobedience program for management and employees. Submit a substantial outline of the program to the Sacramento County Sheriff's Department for review and approval.

Fire Safety

- Fire Department access for emergency response is critical at all times during construction and operation. The Sacramento Metropolitan Fire District will require two points of access. The access roadways will be required to be installed above the level of the 100 year floodplain. The access roadways shall be installed and made serviceable prior to and during the time of construction.
- Details on the onsite water supply which show how the dedicated fire protection water will be provided need to be reviewed and approved by the Sacramento Metropolitan Fire District.
- Provide approved steamer type fire hydrants located a maximum of 300 feet between hydrants.
- Fire department notes and details shall be shown on the civil drawings.

- An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. When any portion of the facility or building is in excess of 150 feet from a water supply on a public street, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the Chief.
- Provide access roadways with all-weather driving surface of not less than 20 feet of unobstructed width, with a minimum turning radius of 38 feet inside/58 feet outside dimension. It shall be capable of supporting the imposed loads of fire apparatus and having a minimum of 13 feet, 6 inches of vertical clearance. The access roadway shall be extended to within 150 feet of all portions of the exterior walls of the first story of any building. Dead-end fire department access roads in excess of 150 feet long shall be provided with approved provisions for the turning around of fire apparatus. Submit a detailed drawing to the Sacramento Metropolitan Fire District for review.
- There shall be no parking on any street narrower than 28 feet. Parking shall be allowed only on one (1) side on streets from 28 feet to 36 feet wide. Streets that are wider than 36 feet, parking shall be allowed on both sides. Measurements shall be from edge of pavement to edge of pavement. On private streets, marking of the fire lanes per the County Fire Marshal's standard may be required.
- Provide approved address numbers on the building in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers shall contrast with their background and on all new buildings, shall be illuminated at night.
- Should security gates be considered for this project, the developer shall contact the Sacramento Metropolitan Fire District for approval of specific clearances, locking mechanisms, or systems which will accommodate emergency fire department use and then follow established permit procedures pursuant to Sacramento County Code, Chapter 16.70. *Note: Further information can be obtained by calling the Crime Prevention Unit of the Sacramento County Sheriff's office at (916) 440-5151.*
- Remove any accumulations of wastepaper, hay, grass, straw, weeds, litter or combustible or flammable waste material, waste petroleum products or rubbish of any kind. All weeds, grass, vines or other growth, when same endangers property or is liable to be fired shall be cut down and removed by the owner or occupant of the property. When total removal of growth from a piece of property is impractical due to size or to environmental factors, approved fuel breaks may be established between the land and the endangered property. The width of the fuel break shall be determined by height, type and amount of growth, wind conditions, geographical conditions and type of exposures threatened.
- All fire protection equipment is to be maintained in operative condition.

Noise

- GP NO-1 Noise created by new transportation¹ noise sources should be mitigated so as not to exceed 60 dB Ldn/CNEL² at the outdoor activity areas of any affected residential lands or land use situated in the unincorporated areas. When a practical application of the best available noise-reduction technology cannot achieve the 60dB Ldn CNEL standard, then an exterior noise level of 65dB Ldn CNEL may be allowed in outdoor activity areas.

Policy Regulates: Noise Sources
Noise Source Type: Transportation
Noise Receptor Type: Residential

Additional performance standard:

- RLEPP shall comply with the 60 dB Ldn/CNEL standard. Construction activities shall also comply with County Noise Ordinance Section 6.68.090, and limit construction activities to 6:00 a.m. to 8:00 p.m. during the weekdays, and 7:00 a.m. to 8:00 p.m. during the weekends. Low-frequency noise impacts at residential receptors shall not exceed 70 dB(C).

- GP NO-2 Noise created by new nontransportation noise sources shall be mitigated so as not to exceed any of the noise level standards of Table II-1, as measured immediately within the property line of any affected residentially designated lands or residential land use situated in the unincorporated areas.

Policy Regulates: Noise Sources
Noise Source Type: Nontransportation
Noise Receptor Type: Residential

- GP NO-3 Where proposed nontransportation noise sources are likely to produce noise levels exceeding the performance standards of Table II-1 at existing or planned residential uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design. (Requirements for the content of an acoustical analysis are given by Table II-2.)

Policy Regulates: Noise Source
Noise Source Type: Nontransportation
Noise Receptor Type: Residential

- CP NS-1 Future development projects within the Rio Linda and Elverta Community Plan area shall comply with the noise standards of the County's General Plan, implementing noise attenuation measures where necessary to ensure compliance.

Agricultural

- GP AG-27 The County shall minimize flood risks to agricultural lands resulting from new urban developments by:
- requiring that such developments incorporate adequate runoff control structures and/or
 - assisting in implementing comprehensive drainage management plans to mitigate increased risks of farmland flooding resulting from such developments.

See performance standard for CP PF-10.

Conservation

Erosion:

- GP CO-13 Roads and structures shall be designed, built and landscaped so as to minimize erosion during and after construction.

Ground Water Recharge:

- GP CO-30 Locate septic systems outside of primary ground water recharge areas, or if that is not possible, require the use of shallow leaching systems for disposal of septic effluent.

---Additional Performance standard:

- Conduct and submit evidence of a "test drill" or soil evaluation prior to sizing the individual sewage disposal system to the satisfaction of the County Environmental Health Department.

Water Conservation and Reuse:

- GP CO-39 Development project approvals shall include a finding that all feasible and cost effective options for conservation and water reuse are incorporated into project design. Wastewater reuse options shall be reviewed and agreed upon by the area water purveyor when the reclaimed water is to be used within the water purveyor's boundaries.

Habitat Protection & Restoration:

- GP CO-62 Ensure no net loss of marsh and riparian woodland acreage, values or functions.
- GP CO-66 Encroachments within the designated floodway of Sacramento waterways shall be consistent with policies to protect marsh and riparian areas.
- GP CO-69 Review projects for potential to restore marsh/riparian woodlands, considering effects on vernal pools, ground water, flooding, and proposed fill or removal of marsh and riparian habitat.

GP CO-70 Public or private projects involving filling or removal of marsh/riparian habitat shall be mitigated outside of natural preserves where on-site mitigation is not desirable or appropriate shall be mitigated through the purchase of mitigation credits for restored wetlands/riparian areas at no net loss.

Vernal Pools:

GP CO-78 Focus vernal pool preservation in permanent open space areas beyond the Urban Area.

GP CO-83 Ensure no net loss of vernal pool acreage, and/or values and functions, and mitigate any loss in relation to the values of quality of habitat.

GP CO-84 Evaluate feasible on-site alternatives in the environmental review process that reduce impacts on vernal pools and provide effective on-site preservation in terms of minimum management requirements, effective size, and evaluation criteria identified in the report "Sacramento County Vernal Pools" (1990).

GP CO-85 Require in-kind compensation for the type and functional values of vernal pools eliminated by development.

GP CO-86 When on-site preservation or mitigation is infeasible or undesirable, require off-site mitigation at County-approved mitigation banks within Sacramento County.

GP CO-87 Mitigation for vernal pool loss shall be considered in the environmental review process, and mitigation shall be required based on information contained within the environmental documents on the quality of those resources and their ability to be sustained within an urban setting.

GP CO-95 Until such time as mitigation credits consistent with the above policies are available, development entitlements involving filling or removal of vernal pools may be granted provided that the project applicant:

- a) purchase and dedicate the development rights for a vernal pool preserve, the extent of which shall not be less than the acreage of vernal pool and upland watershed necessary to sustain the viability of the pools that are proposed to be developed, and, which, in conjunction with adjoining planned vernal pool preserves, will provide a long-term, ecologically viable preserve.
- b) prepare a mitigation and management plan for the preserve area consistent with policies of this section.
- c) Enter into a long-term agreement with an agency or organization qualified to create, manage and monitor vernal pools.
- d) Post bond guaranteeing the management funding for a minimum of 50 years.
- e) Obtains permission from the U.S. Army Corps of Engineers.
- f) Demonstrate that no rare, threatened or endangered species occur on the site.

GP CO-96 Prior to adoption of the mitigation banking ordinance, utilize on a county-wide basis, the adopted interim wetland mitigation/compensation policy: All wetland acreage proposed to be disturbed by any project over which the Board of Supervisors has discretionary approval shall be mitigated/compensated for by either one or a combination of the following methods:

- 1) Preserve or create wetlands sufficient to result in no net loss of wetland acreage, and protect their required watersheds as is necessary for the continued function of wetlands on the project site. The appropriate hearing body shall determine that project design, configuration, and wetland management plan, provide reasonable assurances that the wetlands will be protected and their long-term ecological health maintained.
- 2) Where a Section 404 Permit has been issued by the Corps of Engineers, or an application has been made to obtain a Section 404 Permit, the Mitigation and Management Plan required by that permit or proposed to satisfy the requirements of the Corps for granting a permit may be submitted for purposes of satisfying paragraph 1, provided a no net loss of wetlands is achieved and, provided, further, that such mitigation and management plan shall be subject to the independent, discretionary approval of the Board of Supervisors.
- 3) Pay to the County of Sacramento an amount based on a rate of \$35,000 per acre for the unmitigated/uncompensated wetlands, which shall constitute mitigation for purposes of implementing adopted no net loss policies and CEQA required mitigation. The payment shall be collected by the Department of Planning and Community Development at the time of Improvement Plan or Building Permit approval, whichever occurs earlier, and deposited in the Wetlands Restoration Trust Fund.

GP CO-99 Ensure that minimum management requirements for vernal pool preserves and mitigation banks include protection in perpetuity through acquisition of fee title or a permanent conservation easement; a funding source for long-term operation, maintenance, and management; preparation and implementation of a management plan; and establishment of an interagency oversight committee.

GP CO-100 The price of mitigation credits offered for sale to compensate for vernal pool losses shall incorporate estimated management costs for a minimum of 50 years.

Tree Resources:

GP CO-130 Make every effort to protect and preserve non-oak native, excluding cottonwoods, and landmark trees and protect and preserve native oak trees measuring 6 inches in diameter at 4.5 feet above ground in urban and rural areas, excluding parcels zoned exclusively for agriculture.

- GP CO-131 Native trees other than oaks, which cannot be protected shall be replaced with in-kind species in accordance with established tree planting specifications, the combined diameter of which shall equal the combined diameter of the trees removed. In addition, with respect to oaks, a provision for a comparable on-site area for the propagation of oak trees may substitute for replacement tree planting requirements at the discretion of the County Tree Coordinator when removal of a mature oak tree is necessary in accordance with consistent policy.

Rare and Endangered Species:

- GP CO-143 Control human access to critical habitat areas on public lands to minimize impact upon and disturbance of threatened and endangered species.

Cultural Resources:

- GP CO-155 Utilize the California Archeological and the Sacramento History and Science Division to assist in determining need for survey.
- GP CO-156 Refer projects with identified archeological and cultural resources to the Cultural Resources Committee to determine significance of resource and recommend appropriate means of protection and mitigation. The Committee shall coordinate with the Native American Heritage Commission in developing recommendations.
- GP CO-157 Significant archeologic, prehistoric, or historic sites shall be protected as open space for potential future excavation.
- GP CO-158 Native American burial sites encountered during preapproved survey or during construction shall, whenever possible, remain in situ. Excavation and reburial shall occur when in situ preservation is not possible or when the archeologic significance of the site merits excavation and recording procedure. On-site reinterment shall have priority. The project developer shall provide the burden of proof that off site reinterment is the only feasible alternative. Reinterment shall be the responsibility of local tribal representatives.
- GP CO-159 The cost of all excavation conducted prior to completion of the project shall be the responsibility of the project developer.
- GP CO-160 Monitor projects during construction to ensure crews follow proper reporting, safeguards, and procedures.
- GP CO-161 As a condition of approval of discretionary permits, a procedure shall be included to cover the potential discovery of archaeological resources during development or construction.
- GP CO-162 As a condition of approval for discretionary projects which are in areas of cultural resource sensitivity, the following procedure shall be included to cover the potential discovery of archeological resource during development or construction:

Should any cultural resources, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains be encountered during any development activities, work shall be suspended and the Sacramento County Department of Environmental Review and Assessment shall be immediately notified. At that time, the Department of Environmental Review and Assessment will coordinate any necessary investigation of the site with appropriate specialists, as needed. The project proponent shall be required to implement any mitigation deemed necessary for the protection of the cultural resources. In addition, pursuant to Section 5097.98 of the State Public Resources Code and Section 7050.5 of the State Health and Safety Code, in the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified. If the remains are determined to be Native American, guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

CP NR-20

(CR-1) Encourage the retention of important cultural features in the design of future projects.

(CR-2) When projects are located in areas of sensitivity for Native American cultural resources, the Native American Heritage Commission and members of the local Native American community shall be contacted.

(CR-3) If ground disturbing activities are planned within or adjacent to the boundaries of any known archaeological sites, the following shall be required:

(A) The site area will be inspected by a qualified, professional archaeologist to assess the condition of the property and to determine the current status of the deposit.

(B) Based on this review and, as appropriate, a subsurface testing program will be developed and implemented to determine if the property meets criteria specified in Appendix K of CEQA to qualify as an important archaeological resource. The course of the testing program should be clearly delineated in a research design which outlines prehistory of the area; research domains, questions and data requirements; research methods inclusive of field and laboratory studies; report preparation; and significance criteria.

(C) Following field investigations, a technical report describing the evaluation program should be prepared. At a minimum, this report shall include the elements discussed in the research design, as well as a description of the recovered site assemblage and a significance evaluation. If, based on the results of the testing program, a site is not determined to be an important archaeological resource, then effects to it would have been reduced to less than significant.

(D) If the site is determined to be an important archaeological resource, then additional mitigation measures, namely data recovery investigations may be necessary to reduce impacts to less than significant.

(E) As Native American archaeological resources are involved, identification and treatment shall be conducted in consultation with the local Native American community.

(F) Archaeological investigations shall be conducted by a qualified, professional archaeologist who either meets the federal standards as stated in the Code of

Federal Regulations (36 CFR 61) or is certified by the Society of Professional Archaeologists (SOPA).

Additional performance standard:

- If cultural resources are encountered during construction, all construction activity shall cease within approximately 50-feet of the suspected resources until a qualified archeologist can conduct an evaluation. In addition, pursuant to Section 5097.98 of the California Public Resources Code and Section 7050.5 of the Health and Safety Code, in the event of discovery of human remains, all work is to stop within approximately 50-feet of the find, and the County Coroner shall be immediately notified. If the remains are determined to be Native American, guidelines of the Native American Heritage Commission shall be adhered to in the treatment and disposition of the remains.

CP NR-2 Ensure no net loss of wetlands habitat acreage, values or functions. If the lot of wetlands habitat cannot be avoided, the replacement of wetlands habitat should be located within the Rio Linda-Elverta area.

CP NR-3 Establish and identify wetland mitigation/compensation requirements for project subjected to "no net loss" policy.

Additional performance standard:

- The Project shall preserve wetland habitats on the Project site that are not within the footprint of the Project facilities. The Project shall mitigate the loss of wetlands by establishing replacement wetlands and/or by paying a fee into an approved mitigation bank fund. The replacement wetlands or the wetlands to be supported by the mitigation fee shall be located in the Rio Linda-Elverta Community Plan Area, unless RLEPP demonstrates to the satisfaction of the County that it is not feasible to do so.

CP NR-4 Public or private projects involving the filling or removal of marsh/riparian habitat or wetlands habitat outside of areas designated Natural Preserve where on-site mitigation is not desirable or appropriate shall be mitigated through the purchase of mitigation credits for restored wetlands/riparian areas at a ratio of 2:1.

CP NR-9 Native vegetation shall be used in any riparian or wildlife habitat restoration efforts.

CP NR-11 The use of native drought tolerant plant species is encouraged in developed areas adjacent to Dry Creek and other environment corridors.

Additional performance standard:

- Because the Project is located near an environmental corridor (NEMDC and Tributaries) native drought tolerant plant species shall be included in the landscape plan. Such plants include, but are not limited to: Island or Common Manzanita, Laurel Sumac, Sage, or Blue Elderberry.

CP NR-14 Provide recreation trails and other passive recreation activities along the natural environment corridors, including but not limited to NEMDC, Dry Creek Parkway, Sacramento Northern, utility corridors and Ueda Parkway, connecting the American River Parkway, thus creating linkages and networks of linked trails.

CP NR-17 (BR-1) Future development within the Community Plan area shall minimize impacts to biological resources through the implementation of the following measures, where appropriate:

- Addition of natural preserve designations;
- Avoidance of significant resource areas;
- Enhancement of existing high- or medium-quality habitats;
- Restoration of degraded, polluted or otherwise disturbed low-quality habitats.

CP NR-18 (AI-1) Applicants for future development proposals within the Plan area shall prepare and implement a plan designed to control dust emissions resulting from project activities. At a minimum, the contents of this plan shall contain requirements for the following:

- Application of dust palliatives (e.g. water) at least twice daily (at the beginning and end of daily construction activities) and more often as necessary;
- Watering the construction area or applying some other dust palliatives whenever visible dust clouds appear; and
- Ceasing grading activities whenever sustained winds exceed 25 miles per hour.

(AI-2) To reduce construction-related ROG and Nox impacts to a less than significant level, all construction vehicles and equipment shall be maintained according to manufacturer's specifications. Construction contractors shall be required to show written evidence of appropriate maintenance prior to bringing equipment on site.

Additional performance standard:

- RLEPP shall prepare and implement a dust control plan that mitigates for construction dust impacts, and is in compliance with SMAQMD Rule 403. To control fugitive dust emissions, the construction contract shall require the contractor to water all exposed soil surfaces at least 3 times per day during the grading and construction phases of the project.

Air Quality

GP AQ-5 Require the use of Best Available Control Technology (BACT) to reduce air pollution emissions.

Additional performance standard:

- RLEPP shall construct and operate the facility in compliance with the Clean Air Act (42 U.S.C. §§ 7401 et. Seq.); SMAQMB 403; SMAQMD Rule 202 (New Source Review) and using BACT for NO_x, VOC, PM₁₀ and SO₂ emissions. BACT shall include, but not be limited to the use of dry low NO_x (DLN)

combusters and SCR (with ammonia injection) for reducing NO_x emissions from the CTGs/HRSGs (achieving a NO_x emission level of 2.0 parts per million (ppm)); post-combustion oxidation catalysts located in the HRSGs to achieve CO emissions of not more than 6.0 ppm; and the use of clean burning pipeline quality natural gas (with a sulfur content of less than 0.33 gr/100scf) to reduce sulfur dioxide and PM₁₀ emissions.

GP AQ-17 Require that development projects be located and designed in a manner which will conserve air quality and minimize direct and indirect emission of air contaminants.

GP AQ-37 Maximize air quality benefits through selective use of vegetation in landscaping and through revegetation of appropriate areas.

(See performance standard for CP LU-52.)

CP NR-1 (AI-1) Applicants for future development proposals within the Plan area shall prepare and implement a plan designed to control dust emissions resulting from project activities. At a minimum, the contents of this plan shall contain requirements for the following:

- Application of dust palliatives (e.g. water) at least twice daily (at the beginning and end of daily construction activities) and more often as necessary;
- Watering the construction area or applying some other dust palliatives whenever visible dust clouds appear; and
- Ceasing grading activities whenever sustained winds exceed 25 miles per hour.
- RLEPP shall prepare and implement a dust control plan that mitigates for construction dust impacts, and is in compliance with SMAQMD Rule 403. To control fugitive dust emissions, the construction contract shall require the contractor to water all exposed soil surfaces at least three (3) times per day during the grading and construction phases of the project.

(AI-2) To reduce construction-related ROG and Nox impacts to a less than significant level, all construction vehicles and equipment shall be maintained according to manufacturers specifications. Construction contractors shall be required to show written evidence of appropriate maintenance prior to bringing equipment on site.

ATTACHMENT "C"

Distribution and Status of Response by Agency or Department

<u>Department or Agency</u>	<u>Status of Response</u>
County Departments or Agencies:	
County Public Works:	
Water Resources, Water Supply	Pending.
Water Resources, Drainage	Per e-mail and verbal communication. Water Resources staff has been meeting with the project engineers and has requested additional technical information prior to finalizing response. Initial verbal indication is that impacts can likely be mitigated; but staff prefer to respond based on more complete information.
Water Quality, Sewers	Responded that cannot provide public sewer to the site at this time.
Transportation	No response.
Transportation, Tree Coordinator	Pending. However, Planning indicated to Jim Schubert that a revised landscape plan was under preparation and would be sent when received.
County Parks, Recreation and Open Space	Per verbal communication, they will not be providing a formal response as the area is to the north of the Ueda Parkway.
Environmental Management	Responded; septic system technically feasible.
Sheriff's Department	Responded with request for condition requesting development of a safety plan to address terrorism and related concerns.
Dept. of Environmental Review and Assessment	None as they are not preparing any environmental document on the project.

Rio Linda and Elverta CPAC

The CPAC was sent the referral as an FYI. They had responded via prior special meetings and may also submit further written comments at the Board meeting.

Other Agencies: (Staff notes that these agencies may also choose to communicate directly with the CEC during the CEC review process.)

SMAQMD (Air Quality Mgt. District)

No additional response. Previous comments related to air quality credits (see staff report dated 8/29/01).

Sacramento Metropolitan Fire District

Written response requesting a variety of measures.

SACOG (Airport Land Use Commission)

Written response identifying inconsistency with CLUP with respect to gas pipeline proposed to be located in approach/departure zone of Sacramento International Airport.

Rio Linda and Elverta Park and Rec. District

Per verbal communication the District has not taken a formal stand on this project and currently has no comments.

Rio Linda Water District

No response.

Elverta School District

Per verbal communication the School District has not taken a formal stand on this project and currently has no comments.

SAFCA

Responded requesting compliance with existing regulations particularly regarding no net loss of floodplain storage.